

Advisory Committee on Commercial Operations of Customs and Border Protection (COAC)

U.S. Customs and Border Protection (CBP), San Francisco, CA

February 11, 2015

8:00 AM – 12:00 PM



U.S. Customs and
Border Protection

Committee Welcome and Roll Call

CBP: **Maria Luisa Boyce**
Senior Advisor, Private Sector Engagement
U.S. Customs and Border Protection



U.S. Customs and
Border Protection

Opening Remarks

CBP: **R. Gil Kerlikowske**, Commissioner
U.S. Customs and Border Protection

Treasury: **Timothy Skud**, Deputy Assistant Secretary, Tax, Trade and
Tariff Policy, Department of the Treasury

DHS: **Ellen McClain**, Deputy Assistant Secretary, Trans-Border Policy
Department of Homeland Security

13th Term **Ted Sherman**, Member

COAC: **Kathy Neal**, Member

14th Term **Julie Parks**, Member

COAC: **Vincent Iacopella**, Member



Update on 13th Term COAC

CBP: **Maria Luisa Boyce**
Designated Federal Officer
Advisory Committee on Commercial Operations (COAC)



Exports Subcommittee

COAC: **Julie Parks**, Member
 Elizabeth ‘Liz’ Merritt, Member

CBP: **Michael Denning**, Acting Executive Director
 Cargo and Conveyance Security, Office of Field Operations
 Debbie Augustin, Acting Executive Director,
 ACE Business Office, Office of International Trade



Exports Subcommittee Recommendations

Export Manifest Working Group

Commodity: Licensed

- 1) COAC recommends that CBP engage with Border Interagency Executive Council (BIEC) in order to deliberate on the development of an interagency information tool comparable to the informed compliance program to help develop the competency of those in the trade with export equities.
- 2) COAC recommends that CBP engage with the Bureau of Industry and Security (BIS) upon their initiation of the project to review European Union practice of cross-referencing their control list and 6-digit harmonized tariff number and provides an update to the BIEC PECSEA/COAC on findings and the review process. COAC further recommends that CBP aligns the initiative within the BIEC, and advocate with BIS to engage the Directorate of Defense Trade Controls (DDTC) as a stakeholder in the review process.



Exports Subcommittee Recommendations

3) COAC recommends that CBP Headquarters lead a port standardization effort targeted on licensed exports. The effort shall incorporate input from all stakeholders including the trade, AES automation, CBP Ports, DDTC, BIS, and other relevant permitting and licensing agencies. The undertaking should leverage the BIEC as a steering committee and to resolve cross-agency policy matters. The outcome shall be updated policies and guidance on licensed shipments and a status briefing to COAC.

4) COAC recommends that CBP automate the presentation of all licenses and permits via the Single Window into AES/ACE, to accommodate inbound and outbound as appropriate. Capabilities should exist to link an import to an export or an export to an import, and the design should ensure flexibility of entity relationship and trade reporting. Evaluation of a short term solution to utilize CBP's Document Imaging System should be considered if license automation implementation is extended beyond 1 year. Additionally, given the availability of licensing data via the Single Window, and given the PECSEA recommendation regarding incorporation of licensing points of contact, COAC recommends CBP engage the Trade Support Network for a licensing point of contact design with the goal of resolving holds expeditiously.



Exports Subcommittee Recommendations

5) COAC suggests CBP encourage BIS to complete the final rule regarding International Import Certificates or Delivery Verifications, (proposed rule 79 FR 19552) in order to realize process efficiencies for both CBP and the Trade. With the concept of promoting global standardization of import certificates, we recommend that CBP share this information with other governments. Additionally, we recommend CBP engage BIS and the Bureau of Alcohol, Tobacco, Firearms and Explosives (BATFE) to automate remaining forms. *(See footnote below)*

6) The COAC recommends that CBP brief the BIEC on the new manifest, export automation tools, targeting capabilities, and C-TPAT Exporter Entity in order to prompt a dialogue designed to prevent listing freight forwarders as intermediary consignees on the license at time of license submission. CBP shall engage the trade in the education and dialogue in order to design a solution that meets all stakeholders' key concerns. The resulting new process shall consider Government concerns, industry forwarding practices, leverage the future automation design, and consider benefits of government to government interfaces. *(See footnote below)*



Exports Subcommittee Recommendations

- 7) COAC recommends that CBP compare C-TPAT and C-TPAT Export Entity Criteria with the Department of Defense National Industrial Security Program Operating Manual (NISPOM) and International Traffic and Arms Regulations (ITAR), and reduce redundant reporting and redundant reviews for companies participating in good standing. Additional comparisons should be made to Federal Acquisition Regulations, Defense Acquisition Regulations System (FAR and DFARS) with the same goal.

- 8) COAC recommends that CBP communicate policy changes to the Trade via the Cargo System Messaging Service (CSMS) as well as via other government agency outreach, e.g. Hand Carried DSP-73 Material – Endorsement Permitted at the 1st Port of Departure.

- 9) COAC recommends that CBP engage the BIEC in a discussion to consider aligning the U.S. inbound, outbound, and license valuation regulations in accordance with the World Trade Organization Customs Valuation Agreement.



Exports Subcommittee Recommendations

10) COAC recommends that CBP and the BIEC discuss a process enhancement for the Export Enforcement Coordination Center (E2C2) to prepare a monthly “categorization of risk” export report that considers inputs from all agencies related to export and can be used by CBP as a input into targeting adjustments. The report should quantify the risk, including notation of items removed from the risk register.

11) COAC recommends that CBP initiate cross-agency operations review meetings on a monthly basis to discuss agency referral turn-around times (requires creation of cycle time and volume metrics) and to receive feedback on effectiveness of field operations.

12) COAC recommends that CBP staff the Exodus Command Center to allow for trade inquiries to facilitate compliant exports, in addition to the already scoped work for CBP field operations referrals. CBP should consider directly staffing the Exodus Command Center with Licensing and Permitting Agencies on a regular basis, provided the resources have a delegation of authority to act on outbound questions without referral via E2C2, in order to benefit the Trade and reduce freight stops.



Exports Subcommittee Recommendations

13) COAC recommends that CBP collaborate with the Census Bureau and provide details on the new AES design allowing separate filers for commodity data and transportation/manifest data with the intent of ensuring report data availability to the Trade commodity filer. Additionally, CBP should collaborate with Census to deliver additional solutions that would replace the “routed transaction” language with language and processes that resonate with already provided business process and business data. Regulatory changes may be required to reduce the burden to trade while still meeting agency concerns.

14) COAC recommends that CBP engage the Trade to provide inputs into CBP’s Licensing Operating Manual. Prioritized areas of review should be focused on the areas of opportunity.

15) COAC recommends that CBP automate export data by the creation of the USPPI accounts in ACE and allowing data visibility in ACE for a 5 year time period.



Exports Subcommittee Recommendations

- 16) COAC recommends that CBP engage the BIEC in a dialogue regarding non-technical errors with the request to align agency approaches to penalty assessment. The Trade shall develop a list of examples of non-technical errors to facilitate dialogue.
- 17) COAC recommends that CBP create a new work group to address the post export filing process. This same work group shall address the trade inputs required to address area of opportunity #25 (correction for non-technical errors without penalty).
- 18) COAC recommends that CBP reviews the possibility of automating the filing and release of hand-carried licensed hardware by leveraging a CBP Mobile Group application that may be designed for traveler declarations of hand guns.
- 19) COAC recommends that CBP review their export staffing model with COAC in order to collaborate on excellence, challenges, opportunities, and solutions.



Public Comment Period

Please send in your comments or questions via the Chat box in the webinar.

Your comments will be read into the public record and CBP will respond during the public comment period noted on the agenda if time permits.



Break

We will be taking a ten minute health break and will resume with the February 11th COAC meeting shortly.



One U.S. Government at the Border Subcommittee

COAC: **Mary Ann Comstock**, Member

Susie Hoeger, Member

Scott Boyer, Member

CBP: **Cynthia Whittenburg**, Executive Director
Trade Policy & Programs, Office of International Trade

Debbie Augustin, Acting Executive Director
ACE Business Office, Office of International Trade

FDA: **Douglas Stearn**, Director, Office of Enforcement and
Import Operations, Food and Drug Administration
Domenic Veneziano, Captain U.S. Public Health Service
Director, Division of Import Operations, Food and Drug
Administration



One U.S. Government at the Border

Subcommittee Recommendations

The COAC 1USG will formally submit the PGA Processing and Messaging Overview, Data Dictionary, the Process and Message Flow Maps, and the 1USG Subcommittee Report to the Border Interagency Executive Council Report that resulted from the FDA Working Group as final products.

Process & Messaging Working Group

The COAC recognizes the need to have well defined and understood messages from CBP and/or the PGA's for the various trade members (Carriers, Customs Brokers, Importers and other parties) in the Automated Commercial Environment (ACE).



One U.S. Government at the Border

Subcommittee Recommendations

- 1) The COAC recommends that CBP ensure an acknowledgement of receipt (e.g. “PGA” Data Accepted), followed by defined status messages (e.g. “PGA” May Proceed or Hold Intact) are received from the PGA via CBP when either data (PGA Message Set) or an electronic document (Document Imaging System) is presented to the PGA as part of the cargo release process.
- 2) The COAC recommends that CBP ensure the PGA message sets returned to the trade community identify the PGA involved at the line level or the entry level, by utilizing a valid Agency Program Code in each message. The term “PGA” in the message set is the place holder for the valid Agency Program Code.



One U.S. Government at the Border

Subcommittee Recommendations

3) The COAC recommends that the CBP ACE messages (generated by CBP or a PGA) be designed so all parties (CBP, PGA and the trade) can distinguish between a true “automated (paperless)” message versus a message issued as the result of some manual review. All parties will be able to assess the percentage of “automated” messages to monitor or track trade facilitation efforts.

4) The COAC recommends to CBP the PGA response messages should have a standard definition, and be uniformly applied by each PGA. A best practice would be to map the normal (automated) process flow for each PGA and identify the messages that individual PGA’s will utilize, identifying whether messages will be issued at the entry or the line level. In addition, a DRAFT Message Dictionary is under construction.



One U.S. Government at the Border

Subcommittee Recommendations

5) The COAC recognizes that not all PGAs will require a message set. Some PGAs will utilize the CBP ACE system for their data needs instead of having a standard PGA message set. The COAC recommends to CBP whenever possible, that when a PGA (without their own message set) requests CBP issue a *review, documents required or hold message* that the trade is informed of which PGA is involved, so the trade may appropriately respond to the correct party to resolve a *review, documents required or hold message*.

6) The COAC recommends to CBP that ACE should facilitate carrier visibility to PGA status messages to allow for greater transparency. This work group anticipates that CBP will engage in further dialogue with numerous trade partners representing each transportation mode to facilitate this work.



Trade Enforcement and Revenue Collection Subcommittee

COAC: **Karen Kenney**, Member
 Matt Fass, Member
 Kevin Pinel, Member

CBP: **Cynthia Whittenburg**, Executive Director
 Trade Policy & Programs, Office of International Trade
 Bruce Ingalls, Director, Revenue Division
 Financial Operations, Office of Administration



Trade Enforcement and Revenue Collection Subcommittee Recommendations

Intellectual Property Rights (IPR) Working Group **Voluntary Disclosure Sub-Working Group**

1) The COAC formed a Voluntary Disclosure work group to review the recommendations made at the May 2014 COAC public meeting. The work group has determined that because of the potential litigation risk contained in the Voluntary Disclosure July 20, 2010 document for both CBP and the trade, and the lack of benefits to the trade contained in the document, a pilot of this program is not viable. The COAC recommends that a pilot of this Voluntary Disclosure program for IPR should not be initiated by CBP.



Trade Enforcement and Revenue Collection Subcommittee Recommendations

Anti-Dumping/Countervailing Duty (AD/CVD) Working Group

1) COAC recommends CBP utilize CSMS messaging to more actively push out AD/CVD information in the following circumstances: (1) when a petition is initially filed with the Department of Commerce and at the time of initiation (2) for every scope review determination by the Department of Commerce, with efforts made in conjunction with the DOC to summarize the scope ruling in the most readable/understandable way possible. CSMS messages should also contain links to the DOC case in question and contact information at CBP and DOC for questions.

The target date for development of this process is within 90 days, recognizing that individual cases can involve language that is very technically complicated and the ability to summarize in a more simplified way may vary and take more time.



Trade Enforcement and Revenue Collection Subcommittee Recommendations

2) COAC recommends CBP work with specific industry sectors to develop additional industry outreach related to AD/CVD issues with particular emphasis on reaching further down the supply chain beyond the traditional importer and domestic industry community. This outreach should include additional coordination with other agencies such as the Department of Commerce, the Department of Justice and ICE/HSI, as well as harnessing and building upon the expertise at the Centers of Excellence and Expertise.

The target date to develop and outline a strategy for this is within 90 days with a 12 month target to begin to implement new strategies.



Trade Enforcement and Revenue Collection Subcommittee Recommendations

3) COAC recommends CBP undertake a dedicated communications initiative to further develop and improve information systems currently communicating AD/CVD information to stakeholders. Specific areas of focus should include (1) more prominent highlighting of AD/CVD information on the current cbp.gov website (2) communicating additional case-specific information such as “fraud alerts” and other appropriate “concerns for the trade” (3) better coordination of AD/CVD web portals/web content currently managed by other agencies and (4) continued development of FAQ’s working in conjunction with the trade and other agencies. We recommend ongoing coordination with the trade as much as possible with all of these communication efforts.

We recognize the ongoing work currently taking place in these areas and recommend a target date of 12 months to develop a more fully dedicated communications structure.



Trade Enforcement and Revenue Collection Subcommittee Recommendations

4) COAC recommends consideration in the longer term of the idea of a single, multi-agency managed website dedicated to AD/CVD. AD/CVD has a unique and particularly complicated set of laws, regulations and policies with multiple agencies involved in management of the AD/CVD process. The existence of one single website or other communications portal dedicated as an umbrella for AD/CVD information could provide significant long term value for all stakeholders.



Public Comment Period

Please send in your comments or questions via the Chat box in the webinar.

Your comments will be read into the public record and CBP will respond during the public comment period noted on the agenda if time permits.



Trade Modernization Subcommittee

COAC: **Jim Phillips**, Member

CBP: **Troy Riley**, Executive Director
Commercial Targeting & Enforcement, Office of International Trade

Debbie Augustin, Acting Executive Director
ACE Business Office, Office of International Trade

Cynthia Whittenburg, Executive Director
Trade Policy & Programs, Office of International Trade



Trade Modernization Subcommittee Recommendations

Centers of Excellence and Expertise (CEE)

Over the last several months significant discussion has taken place on CEE performance and metrics. Although, survey results to date show that the Centers are highly rated by most initial participants, both CBP and the COAC agree that metrics should be created to monitor performance on an ongoing basis (from both a trade and government perspective). This will be especially important as a significant number of additional companies are processed under CEEs. Consistent with these discussions, the following will be reviewed by the full COAC and voted on in February 2015:



Trade Modernization Subcommittee Recommendations

As stated on www.CBP.gov, Centers of Excellence and Expertise were “established to increase uniformity of practices across ports of entry, facilitate the timely resolution of trade compliance issues nationwide, and further strengthen critical agency knowledge on key industry practices.” Metrics that capture benefits to the trade and CBP will help determine if the CEE’s are succeeding. Examples of benefits include reductions in processing times, reductions in forms required to be processed and implementation of the CEE as a single point of contact (versus working separately with each port). Further, questionnaires to individual companies may be the best method to collect this data.

1) COAC recommends that CBP create metrics, collect data, and review with COAC and other stakeholders by the end of the fiscal year 2015. Metrics should be reviewed with COAC and other stakeholders on a quarterly basis to determine if CEE objectives are being satisfied.



Trade Modernization Subcommittee Recommendations

Simplified Summary and Revenue Collection Working Group

Another topic that led to considerable discussion was Simplified Summary and Entry Summary Payment. Although, detailed work remains on how this process would work the subcommittee believed it was important to bring a recommendation to the full COAC for review while the proposed process is in development. Members discussed both possible benefits and possible challenges to the success of the program as indicated in the recommendation. Consistent with these discussions, the following will be reviewed by the full COAC and likely voted on in February 2015:

In 2014, CBP formed the Simplified Summary and Revenue Collection Working Group. The purpose of this group was to examine the import summary and payment processes and identify opportunities for improvements. The working group was comprised of representatives from CBP and the trade community. In development of the Simplified Processes concept, the working group convened for three working sessions to discuss research and define the desired future state of importation. CBP is reviewing work done to date and gaining additional input through outreach to the trade.



Trade Modernization Subcommittee Recommendations

Simplified Summary and Revenue Collection Working Group

The COAC recommends that:

- 1) CBP continue to work with a broad section of the trade to explore a Simplified Entry Summary and Payment process that is beneficial to the trade and CBP.
- 2) Participation in a Simplified Entry Summary and Payment program should be optional and that customs brokers and IOR's should be able to file CF7501's in the current, legacy process.
- 3) The development of a Simplified Entry Summary and Payment program should be postponed if it will negatively impact ACE core cargo processing deployment.
- 4) The following should be evaluated before proceeding with design and implantation of a Simplified Entry Summary and Payment program:
 - a. Level of resources that would be required by importers and brokers to participate in the process.
 - b. Additional layers of services that would be needed by Customs Brokers
 - c. Level of benefit a Simplified Entry Summary and Payment program would provide to CBP and the Trade as compared to the cost.



Public Comment Period

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Global Supply Chain Subcommittee

COAC: **Jim Phillips**, Member

Elizabeth ‘Liz’ Merritt, Member

CBP: **Ana Hinojosa**, Deputy Assistant Commissioner
Office of International Affairs

Elizabeth ‘Liz’ Schmelzinger, Director
Office of Border Initiatives, Office of Field Operations

Michael Denning, Acting Executive Director,
Cargo and Conveyance Security, Office of Field Operations



Global Supply Chain Subcommittee Recommendations

Beyond The Border Action Plan

On February 4, 2011, President Obama and Prime Minister Harper announced the United States-Canada joint declaration, Beyond the Border: A Shared Vision for Perimeter Security and Economic Competitiveness. Beyond the Border articulates a shared approach to security in which both countries work together to address threats within, at, and away from our borders, while expediting lawful trade and travel.

Since the signing of the agreement, good work has been completed on several of the initiatives as listed in the “2012-2014 PROGRESS REPORT: BEYOND THE BORDER ACTION PLAN.”

Work continues on several additional initiatives.



Global Supply Chain Subcommittee Recommendations

The COAC recommends that DHS/CBP continue to work with Canada on and complete Beyond the Border initiatives that include but are not limited to the following:

- 1) COAC recommends continued development and implementation of Single windows in each of our countries through which importers can submit all government-required information (filing data 1 time for multiple uses).
- 2) COAC recommends the implementation of U.S. / Canada recommendations of the Integrated Cargo Security Strategy pending CBP/CBSA evaluation.
- 3) COAC recommends that CBP support the completion of a Land, Rail, Maritime, and Air Preclearance agreement with Canada for all modes and develop an implementation plan for execution.
- 4) COAC recommends streamlined processing of temporary workers who support cross border operations or customers.



Global Supply Chain Subcommittee Recommendations

- 5) COAC recommends continued diligence on the harmonization of trusted trader programs.
- 6) COAC recommends implementation of the truck in transit pilot and program.
- 7) COAC recommends that DHS/CBP work with Canada to complete the updated implementation strategy with timelines and timely reporting against those goals to internal and external parties including the COAC.
- 8) COAC recommends that CBP institutionalize the sharing of best practices from Beyond the Border initiatives and pilots to facilitate trade and, where beneficial, implement at applicable US ports.
- 9) The COAC recommends that the USA - Canada border fee study be summarized to include study goals and conclusions. The COAC supports an additional study to analyze the overall cost of crossing the border.



Global Supply Chain Subcommittee Recommendations

21st Century Border Initiative

In 2010, Mexico and the United States issued the Joint Declaration on 21st Century Border Management and committed to ensure that our common border promotes economic competitiveness and enhances security in both countries through the efficient, rapid and lawful movement of goods and people. Since the signing of the agreement, good work has been completed on several initiatives as listed under <http://www.dhs.gov/accomplishments-and-announcements>.



Global Supply Chain Subcommittee Recommendations

21st Century Border Initiative

The COAC recommends that DHS/CBP continue to work with Mexico under the umbrella of the Joint Declaration on 21st Century Border, taking into consideration the work done and lessons learned on the Beyond The Border Initiative, on projects that include but are not limited to the following:

- 1) The COAC recommends that DHS/CBP work with Mexico to create a plan to mitigate border congestion and address port hour limitations.
- 2) The COAC recommends that DHS/CBP work with Mexico under the umbrella of the Joint Declaration on the 21st Century Border to create and disseminate a mutually-agreed-upon plan of infrastructure improvements.



Global Supply Chain

Subcommittee Recommendations

- 3) The COAC recommends that DHS/CBP continue to work with Mexico to create a formal communication plan between Mexico and the USA to understand, discuss, and address ongoing issues and emergencies (example: unplanned and planned down time).
- 4) The COAC recommends that DHS/CBP work with Mexico to leverage Mexico's existing process for single window filing in both countries through which importers can submit all government-required information. The Trade should be able to file data one time for multiple uses.
- 5) The COAC recommends that DHS/CBP work with Mexico to create a structured implementation strategy for actions proposed in the 21st Century Border Action Plan with timelines and timely reporting against those goals to internal and external parties including the COAC.
- 6) COAC recommends that CBP institutionalize the sharing of best practices from initiatives and pilots to facilitate trade and, where beneficial, implement at applicable US ports.



Global Supply Chain Subcommittee Recommendations

Wait Time Metrics

The GAO reported that CBP action is needed to improve wait time data and measure outcomes of trade facilitation efforts. Consistent with those findings:

- 1) COAC recommends that CBP determine and take steps to ensure consistent implementation of existing wait time data collection methodologies across all commercial ports of entry by the end of fiscal year 2015. This data shall be shared with COAC and the Trade.
- 2) COAC recommends that CBP assess the feasibility of replacing current methodologies with automation by the end of fiscal year 2015. Options shall be discussed with the COAC.



Global Supply Chain Subcommittee Recommendations

- 3) COAC recommends that CBP document its staff allocation process and rationale and share appropriate details with COAC.
- 4) COAC recommends that CBP develop outcome-oriented performance measures with respect to wait time improvements.
- 5) COAC recommends CBP develop FAST vs. Non-FAST lane metrics for CBP, Carriers and Importers to query through ACE. Metrics shall include FAST lane usage by Importer , Carrier and Port. The intent is to better substantiate FAST lane advantages and enable best use of FAST lane capabilities by all stakeholders.



Trusted Trader Subcommittee

COAC: **William ‘Bill’ Earle**, Member

CBP: **Michael Denning**, Acting Executive Director
Cargo and Conveyance Security, Office of Field Operations
Cynthia Whittenburg, Executive Director
Trade Policy & Programs, Office of International Trade



Public Comment Period

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Closing Remarks

CBP: **R. Gil Kerlikowske**, Commissioner
U.S. Customs and Border Protection

Recognition of Departing 13th Term COAC members:

Ted Sherman	COAC Trade Co-Chair
Kathleen Neal	COAC Trade Vice Co-Chair
Mary Ann Comstock	Trade Co-Chair, One U.S. Government at the Border Subcommittee
Jeff Coppersmith	Member – Trade Lead, Role of the Broker Working Group
William Earle	Trade Co-Chair, Trusted Trader Subcommittee
Matt Fass	Trade Lead, Anti-dumping/Countervailing Duty Working Group
William Ferguson	Trade Co-Chair, Trusted Trader Subcommittee
Carol Hallett	Distinguished Member, former Commissioner U.S. Customs Service
Karen Kenney	Trade Co-Chair, Trade Enforcement & Revenue Collection Subcommittee
James “Jim” Phillips	Trade Co-Chair, Global Supply Chain and Trade Modernization Subcommittees
George Weise	Distinguished Member, former Commissioner U.S. Customs Service



Adjourn



U.S. Customs and
Border Protection



U.S. Customs and Border Protection

Our Mission

We are the guardians of our Nation's borders.

We are America's frontline.

We safeguard the American homeland at and beyond our borders.

We protect the American public against terrorists and the instruments of terror.

We steadfastly enforce the laws of the United States while fostering our nation's economic security through lawful international trade and travel.

We serve the American public with vigilance, integrity and professionalism.